

State of California
Regional Water Quality Control Board
North Coast Region

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March 16, 2004

EXECUTIVE OFFICER'S SUMMARY REPORT
9:00 a.m., March 24, 2004
North Coast Regional Water Board
Hearing Room
5550 Skylane Boulevard, Suite A
Santa Rosa, California

ITEM: 8

SUBJECT: Public Hearing to consider the Schedule of Compliance Amendment to the *Water Quality Control Plan for the North Coast Region*

INTRODUCTION

We will hold a hearing on the Schedule of Compliance Amendment to the *Water Quality Control Plan for the North Coast Region* (Basin Plan). This includes a presentation describing the amendment, a summary of comments received 15 days prior to the hearing, followed by any additional comments from the Regional Water Board and public.

DISCUSSION

Schedules of compliance are a tool to obtain compliance with effluent and/or receiving water limitations established to achieve water quality objectives or prohibitions adopted by the Regional Water Quality Control Board, State Water Resources Control Board or water quality criteria promulgated by the U.S. Environmental Protection Agency (U.S. EPA). Both the federal Clean Water Act (CWA) and the Porter-Cologne Water Quality Control Act recognize schedules of compliance as an integral tool for bringing dischargers into compliance with new, revised or newly interpreted water quality objectives, criteria, or prohibitions. This mechanism is presently authorized statewide for non-NPDES Waste Discharge Requirements (WDRs). Schedules of compliance are also authorized statewide in NPDES permits for toxic pollutants (CTR priority pollutants). However, schedules of compliance are not authorized for other pollutants outside of the priority pollutant category without specific language that has been approved in a Basin Plan. Several Regional Water Boards (including Regions 2, 4, 5, and 8) have added language to authorize schedules of compliance in their Basin Plans.

In order to return the options previously available to the North Coast Regional Water Board in its permitting functions, staff recommends that a schedule of compliance amendment be adopted. Without this amendment, the Regional Water Board's only course of action is to issue an enforcement order (i.e., Cease and Desist Order or Time Schedule Order), which provides interim timelines and actions (including findings that the schedule is as short as feasible), but has no effect under the federal Clean Water Act. Once the schedule of compliance provision is in place, the Regional Water Board may choose to use a permit specified compliance schedule or other tools (e.g. enforcement actions) to assure compliance with permit requirements.

Specifically, the proposed amendment would authorize schedules of compliance in NPDES permits for existing dischargers (NPDES permittees) for effluent limitations and/or, receiving water limitations specified to implement new, revised, or newly interpreted water quality objectives, criteria, or prohibitions. The proposed amendment would also authorize schedules of compliance in NPDES permits for existing non-NPDES permittees that under new interpretation of law are newly required to comply with NPDES permitting requirements. The provision would require that compliance be achieved in the shortest feasible period of time, with a presumptive limit of five years, and the possibility of an extension of up to five additional years. In addition, schedules of compliance would be authorized for TMDLs derived effluent and/or receiving water limitations that are specified to implement new, revised, or newly interpreted water quality objectives, criteria, or prohibitions that are adopted as a single permitting action. In this scenario, schedules of compliance shall also require compliance in the shortest feasible period of time, but may extend beyond ten years from the date of permit issuance.

Staff released the Draft Schedule of Compliance Amendment Staff Report on February 2, 2004. The Staff Report (Exhibit A) has been revised to reflect the comments received prior to March 9, 2004. A notice for the Public Hearing (Attachment B) was sent to all interested parties that have requested to be contacted regarding issues such as this. In addition, the Notice of Public Hearing was published in newspapers throughout the region.

**PRELIMINARY STAFF
RECOMMENDATION:**

Staff recommends that the Regional Water Board adopt Resolution R1-2004-0011 (Attachment A), for the Schedule of Compliance Amendment, following closure of the Public Hearing.

(eosr compliance schedules)